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May 15, 2006

### REMARKS

Reconsideration of this application in view of the above amendments and following remarks is respectfully requested. Claim 10 has been currently amended. Claims 1-9 were previously cancelled. Support for amended claim 10 may be found, for example, in the specification at col. 7, lines 44-45 and col. 7, lines 43-67, as well as in the related drawings. No new matter has been added. For purposes of clarity, Applicant addresses each of the Examiner's rejections in the order set forth in the Office Action.

Claim 10 presently stands rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,253,515 to Kuelker. In order to obviate this ground of rejection, Applicant has filed herewith an appropriate terminal disclaimer. Accordingly, Applicant respectfully requests that this ground of rejection be withdrawn.

Claim 10 presently stands rejected under 35 U.S.C. § 103(a) as being obvious in view of U.S. Patent No. 3,280,525 to Crowley and U.S. Patent No. 4,047,357 to Mulholland. Applicant respectfully disagrees with the Examiner's position in this regard and traverses the rejection.

With respect to the '525 patent to Crowley, the Examiner notes that:

... Crowley discloses a concrete panel system mounted to a support wall (17) used as a tank, the concrete panels having a bevel on the edges which form a V shape (fig. 1: adjacent 16) where a peak of the V is at the back of the panel. Crowley discloses the panels as having a slight curve and a non flexible sealant in the V.

Office Action at page 3 (*emphasis added*).

In order to overcome Crowley's teachings of "a non flexible sealant in the V" the Examiner relies on the teachings of U.S. Patent No. 4,047,357 to Mulholland. In this regard, the Examiner notes that "Mulholland discloses concrete rectangular edge to edge panels (fig. 1) having a rubber gasket there between (column 4, lines 27-33) to increase the water resistance." *Id.*

In view of the foregoing teachings, the Examiner goes on to conclude that:

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Crowley by using a rubber gasket, as disclosed by Mulholland, in order to increase water resistance of the tank. It would also have been obvious to use rectangular shaped panels, as disclosed by Mulholland and

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also disclosed in typical building construction throughout, as a preference in order to fit the tank in particular areas where a circular tank may not fit, since tanks are often made in rectangular shapes.

Office Action at paragraph spanning pages 3-4 (*emphasis added*).

Applicant respectfully disagrees with the Examiner's assertion that it would have been obvious to modify the concrete tanks taught by Crowley such that they include a rubber gasket as taught by Muholland. On the contrary, one having ordinary skill in the art would have no motivation whatsoever to use a rubber gasket (or flexible sealant material of any kind) in any portions of the "open spaces or channels between the assembled units when their contact edges [14] meet" because these partially V-shaped "spaces are filled in a subsequent constructional step with hydraulic mortar 16 or other suitable cementitious grouting." (col. 2, lines 23-27) The rigid mortar is "necessary in order to transmit the prestressing force from one panel to another." (col. 3, 15-17) Thus, Crowley clearly teaches away from the present invention because, and unlike a rigid mortar, a flexible sealant material is unable to effectively transmit prestressing forces from one panel to another.

In addition, and also contrary to the Examiner's position, concrete tanks assembled from a plurality of panels arranged in side-by-side fashion would rarely, if ever, be made so as to have a rectangular shape. Rather, concrete paneled tanks in most all instances would define a circular shape because this geometry allows for uniform circumferential compression forces, and provides for significantly greater volume and strength per concrete panel area. Therefore, and because there is no teaching or suggestion in either Crowley or Muholland for making the modifications suggested by the Examiner, the presently claimed concrete panel system is not obvious.

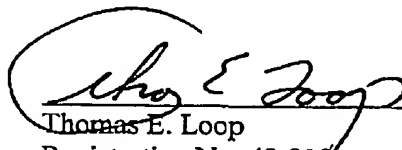
Finally, Applicant respectfully disputes the Examiner's contention that Crowley discloses a concrete panel system mounted to a support wall. On the contrary, the intermediate wall 17 disclosed in Crowley does not function as a support wall because this wall is formed only after the concrete panels have been erected and connected together. (col. 2, lines 54-63) Accordingly, and the foregoing reasons, Applicant respectfully requests that the Examiner's obviousness rejection be withdrawn.

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In order to further patentably distinguish the presently claimed concrete panel system from the prior art of record, Applicant has elected to amend claim 10 such that it now recites that the V-joint has its apex at the point of contact between adjacent panels thereby forming a crush zone. Applicant respectfully submits that there is no teachings or suggestions in the prior art of a concrete panel system with this type of configuration; namely, a concrete panel system wherein the side edges of adjacent panels form a V-joint therebetween, wherein the V-joint has its apex at the point of contact between adjacent panels upon installation of the panels thereby forming a crush zone, and wherein a flexible sealant material is in portions of the V-joint so as to provide a seal between adjacent panels. Accordingly, and on this alternative basis, Applicant respectfully requests that the Examiner's obviousness rejection be withdrawn.

In view of the foregoing, issuance of a Notice of Allowance for the presently claimed invention is earnestly solicited. A good faith effort has been made to place this application in condition for allowance. If, however, any further matter requires attention prior to allowance, the Examiner is respectfully requested to contact the undersigned attorney to resolve the same.

Respectfully submitted,

  
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